

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILLIAM ANSELL,

Plaintiff(s),

09cv1398

ELECTRONICALLY FILED

v.

ROSS TOWNSHIP, ET AL.,

Defendant(s).

Order of Court re: Motions to Stay (doc. nos. 33 and 37)

After careful consideration of defendants' motion to stay proceedings pending appeal (doc no. 33), and the joint motion filed by all defendants (doc. no. 37), and plaintiff's response in opposition thereto (doc. no. 38), said motions are DENIED. In addition to the reasons cited by plaintiff in his response in opposition (doc. no. 38), the Court finds that discovery and the ADR process shall proceed as scheduled because the appeal of the order on the motion to dismiss turns on issues of fact, and does not turn on issues of law, exclusively, and therefore, this Court finds the appeal to be unfounded. *Forbes v. Township of Lower Merion*, 313 F.3d 144, 14 (3d Cir. 2002) (A denial of a motion for summary judgment based upon qualified immunity is limited to the extent that a claim of immunity turns on an issue of law; thus, when a defendant argues that the district court erred in denying a qualified immunity summary judgment motions because the judge was mistaken as to the facts that are subject to genuine dispute, the defendant's argument cannot be entertained under the collateral-order doctrine but must instead await an appeal at the

conclusion of the case).

SO ORDERED this 25th day of February, 2010.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All Registered ECF Counsel and Parties